IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 736 OF 2007
IN
CRIMINAL APPEAL NO. 448 OF 2007

Mr. Begani Talab Suleman
@ Bashir @ TKARA ..Applicant
(Org.Accd.No.2)

Vs.

Union of India and anr. ..Respondents

WITH
CRIMINAL APPLICATION NO. 737 OF 2007
IN
CRIMINAL APPEAL NO. 449 OF 2007

Mr. Farook Qureshi @ Farook ..Applicant
(Org.Accd.No.4)

Vs.

Union of India and anr. ..Respondents

WITH
CRIMINAL APPLICATION NO. 738 OF 2007
IN
CRIMINAL APPEAL NO. 450 OF 2007

Mr. Zainul Abadin @ Zainul ..Applicant
(Org.Accd.No.5)

Vs.

Union of India and anr. ..Respondents

Mr. Ayaz Khan for applicants.
Ms. P.H. Kantharia for Union of India.
Mr. Y.S. Shinde, APP for State.

CORAM: B.H. MARLAPALLE, J.

Date : July 30, 2007.

P.C.:

1. Heard the learned counsel for the applicants who have filed the respective appeals against the order of conviction and sentence passed by the NDPS Court in N.D.P.S. Special Case No. 71 of 2000. Each of them has been sentenced to suffer RI for 10 years and to pay a fine of Rs.1 lac for the offences punishable under Sections 21 (c) as well as Sections 28 and 29 of the NDPS Act, 1985 separately. The learned counsel for the applicants states that all of them were taken in custody on the date of the raid i.e. 18/2/2000 and thus they have been in jail for more than 7 years and 5 months. Out of the five convicted accused, one accused has died. The appeals filed are likely to wait for final hearing in the normal course and, therefore, he has placed reliance on the order passed by a three Judge Bench of the

Supreme Court in the case of Mansingh vs. Union of India [(2006) 1 SCC (Cri) 279]. The appellant therein was convicted and sentenced for the offences punishable under Sections 8/18 and 8/15 of the NDPS Act, 1985 and awarded a sentence of RI for 10 years with fine of Rs.1 lac on each count and they had undergone more than seven years of imprisonment. There was no likelihood of the appeal being heard in the near future and on such facts their Lordships by referring to the earlier decision in the case of Dadu Vs. State of Maharashtra [(2000) 8 SCC 437] were pleased to direct the release of the appellant therein on bail, but on depositing the amount of fine and the execution of the sentence of imprisonment was directed to be suspended during the pendency of the appeal.

2. If the applicants have been in custody from 18/2/2000 continuously, undoubtedly, I am bound by the order passed by the Apex Court in Mansingh’s case (Supra) subject to each of the applicants depositing the fine amount.

3. Hence the applications stand allowed. The

order of sentence passed in NDPS Special Case No. 71 of 2000 is hereby suspended if each of the applicants deposits the amount of fine within a period of four weeks from today and on deposit of such fine amount they shall be released on bail pending the hearing of the appeals and on furnishing a PR bond in the sum of Rs.10,000/- each and with two solvent sureties in the like amount. As and when each of the appeals are listed for final hearing, each of the applicants shall remain present before this court and till then each one of them shall report to the Narcotic Control Bureau office at Ballard Pier, Mumbai once in a week.

(B.H. Marlapalle,J.)